

37 Am. Jur. 2d Fraud and Deceit § 61

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Fraud and Deceit

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IV. False Representations

A. In General

§ 61. Construction of language used

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West's Key Number Digest

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The scope of particular representations is a matter of construction. In the construction of a representation, the language used is to be interpreted by the effect that it would produce upon an ordinary mind,¹ and words will be given their usual and natural meaning² since that is the sense in which the person using them must be presumed to have intended them to be understood.³ Consideration will be given to the nature of the representation and the meaning of the language used as applied to the subject matter and as interpreted by the surrounding circumstances.⁴ Statements comprising an alleged misrepresentation must be viewed in their entirety to adequately resolve the question of whether a misrepresentation has occurred.⁵ A plaintiff must exercise ordinary intelligence to determine the truth or real quality of the subject of a representation.⁶

Where the evidence relied upon to prove fraud is equally consistent with innocence, that construction must be placed upon it which will exonerate the accused party.⁷

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Footnotes

¹ Downey v. Finucane, 205 N.Y. 251, 98 N.E. 391 (1912).

² Monier v. Guaranty Trust Co. of New York, 82 F.2d 252, 104 A.L.R. 912 (C.C.A. 2d Cir. 1936).

³ Davis v. Louisville Trust Co., 181 F. 10 (C.C.A. 6th Cir. 1910).

⁴ Mortarino v. Consultant Engineering Services, Inc., 251 Va. 289, 467 S.E.2d 778 (1996).

⁵ Wilson v. First Union Nat. Bank of Georgia, 716 So. 2d 722 (Ala. Civ. App. 1998).

⁶ Madison Home Equities, Inc. v. Echeverria, 266 A.D.2d 435, 698 N.Y.S.2d 703 (2d Dep't 1999).

⁷ § 483.

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